

1999 Senate Bill 83

Date of enactment: **April 28, 1999**
Date of publication*: **May 12, 1999**

1999 WISCONSIN ACT 3

AN ACT *to renumber and amend* 948.05 (1) (c); and *to amend* 939.615 (1) (b) 1., 948.05 (2), 948.05 (3), 948.13 (1) (a) and 973.034 of the statutes; **relating to:** materials involving the sexual exploitation of a child.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 939.615 (1) (b) 1. of the statutes is amended to read:

939.615 (1) (b) 1. A violation, or the solicitation, conspiracy or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2) or (3), 948.02 (1) or (2), 948.025 (1), 948.05 (1) or (1m), 948.055 (1), 948.06, 948.07, 948.08, 948.11 (2) (a), 948.12 or 948.13.

SECTION 2. 948.05 (1) (c) of the statutes is renumbered 948.05 (1m) and amended to read:

948.05 (1m) Produces ~~Whoever produces~~, performs in, profits from, promotes, imports into the state, reproduces, advertises, sells, distributes or possesses with intent to sell or distribute, any undeveloped film, photographic negative, photograph, motion picture, videotape, sound recording or other reproduction of a child engaging in sexually explicit conduct is guilty of a Class C felony if the person knows the character and content of the sexually explicit conduct involving the child and if the person knows or reasonably should know that the child engaging in the sexually explicit conduct has not attained the age of 18 years.

SECTION 3. 948.05 (2) of the statutes is amended to read:

948.05 (2) A person responsible for a child's welfare who knowingly permits, allows or encourages the child

to engage in sexually explicit conduct for a purpose proscribed in sub. (1) (a), or (b) or ~~(e)~~ (1m) is guilty of a Class C felony.

SECTION 4. 948.05 (3) of the statutes is amended to read:

948.05 (3) It is an affirmative defense to prosecution for violation of ~~this section sub. (1) (a) or (b) or (2)~~ if the defendant had reasonable cause to believe that the child had attained the age of 18 years, ~~and the child exhibited to the defendant, or the defendant's agent or client, a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that the child had attained the age of 18 years.~~ A defendant who raises this affirmative defense has the burden of proving this defense by a preponderance of the evidence.

SECTION 5. 948.13 (1) (a) of the statutes is amended to read:

948.13 (1) (a) A crime under s. 940.22 (2) or 940.225 (2) (c) or (cm), if the victim is under 18 years of age at the time of the offense, or a crime under s. 948.02 (1), 948.025 (1), 948.05 (1) or (1m), 948.06 or 948.07 (1), (2), (3) or (4).

SECTION 6. 973.034 of the statutes is amended to read:

973.034 Sentencing; restriction on child sex offender working with children. Whenever a court imposes a sentence or places a defendant on probation regarding a conviction under s. 940.22 (2) or 940.225 (2)

* Section 991.11, WISCONSIN STATUTES 1997-98: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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(c) or (cm), if the victim is under 18 years of age at the time of the offense, or a conviction under s. 948.02 (1), 948.025 (1), 948.05 (1) or (1m), 948.06 or 948.07 (1), (2),

(3) or (4), the court shall inform the defendant of the requirements and penalties under s. 948.13.